

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

CC Docket No. 80-286

Jurisdictional Separations Reform and)
Referral to the Federal-State Joint Board)

**REPLY COMMENTS OF VERIZON¹
ON JOINT BOARD RECOMMENDED DECISION**

The vast majority of commenters support the recommendation to freeze separation factors because of the significant public policy benefits that will result from eliminating the unnecessary cost and burdens that are imposed by the current separations requirements.

Those few commenters that oppose a freeze propose changes to the separations process that would merely replace existing arbitrary allocations with new – equally arbitrary – replacements. *See, e.g.,* AT&T Comments at 7 (suggesting that marketing expense, which benefits both interstate and intrastate services, should be treated exclusively as an intrastate expense). As Verizon demonstrated in its initial comments, such changes are disruptive to consumers and interject non-economic and inherently arbitrary regulatory and political decisions into the separations process, and, ultimately, into pricing decisions.

In particular, to the extent some parties argue that the Commission should adopt a new allocation of the local loop costs, the result would be a purposeless disruption of

¹ The Verizon telephone companies (“Verizon”) are the local exchange carriers affiliated with Verizon Communications Inc., and are listed in an attachment.

telecommunications markets. While they point to changes in usage patterns as the purported justification for such a change, the simple fact is that changes in usage patterns have no impact on fixed loop costs. Moreover, because loop costs are recovered through direct end-user charges in both state and interstate tariffs, such a change could merely force carriers to raise customer charges in one jurisdiction in order to recover costs previously recovered through a direct charge to the same customers in the other jurisdiction. Such an exercise would be pointless, disruptive and confusing to customers.

Contrary to the suggestion of the Pennsylvania Public Utility Commission (at 9), section 254(k) of the Act is not relevant to the issues here. By its own terms, section 254(k) prohibits use of services “that are not competitive to subsidize services that are subject to competition.” 47 U.S.C. § 254(k). It says nothing about how costs should be allocated between regulatory jurisdictions. Indeed, the Eighth Circuit Court of Appeals rejected a similar argument, finding that decisions concerning “a method of recovering loop costs,” such as the federal subscriber line charge or local residential rates, do not address “an allocation” of costs between supported and unsupported services, and therefore “section 254(k) is not implicated.” *Southwestern Bell Telephone Company v. FCC*, 153 F.3d 523, 559 (8th Cir. 1998).²

While several commenters argue that any frozen separations factors should be adjusted to account for Internet minutes, they do not explain why such an adjustment would be any less arbitrary than the current allocation. Indeed, the current separations

² The California Public Utility Commission (at 10-11) argues that a freeze would make imputation tests for specific services more difficult. But separations are not done on a service-specific basis and regardless of whether there is a freeze, separations results do not purport to measure the service-specific costs that are needed for imputation purposes.

factors are not tied directly to any precise measures of relative usage, and historically have over-assigned costs to the interstate jurisdiction if evaluated based on usage. Moreover, none of these proposals address the fact that, under the Commission's access charge exemption, the Commission has required that costs for service to Internet service providers ("ISPs") be recovered through state-administered tariffs – revenue that is treated as intrastate for separations purposes. Under the Commission's matching principles, which generally require that costs and revenues to be assigned to the same jurisdiction, there is no basis to move the costs of Internet-bound traffic to the interstate jurisdiction.

Finally, the Commission should reject GSA's argument (at 8) that the Commission should "continue requirements for price cap carriers to update jurisdictional allocation factors during the term of the freeze." A significant public benefit of the freeze is the cost savings associated with elimination of an unnecessary regulatory requirement. *See Recommended Decision at ¶ 31* (one benefit of proposed freeze is to "simplify the entire Part 36 process for all ILECs"). It would be completely antithetical to the deregulatory intent of the 1996 Act for the Commission to eliminate the requirement, but still require carriers to expend resources and file reports as if the requirement were still in place. *See, e.g.,* 47 U.S.C. § 161(b) ("The Commission shall repeal or modify any regulation it determines to be no longer necessary in the public interest."); *id.*, § 160 (the Commission "shall forbear from applying any regulation" that "is not necessary" to serve the public interest). Once the Commission recognizes the associated benefits and adopts a freeze, carriers must not be required to pretend that the Commission had ruled otherwise.

Conclusion

The Commission should adopt the Joint Board's proposed freeze, but reject arguments that the frozen separation factors should be adjusted to take Internet traffic into account.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Edward Shakin', written over a horizontal line.

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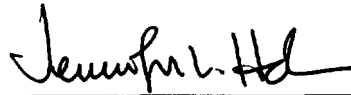
THE VERIZON TELEPHONE COMPANIES

The Verizon telephone companies are the local exchange carriers affiliated with Verizon Communications Inc. These are:

Contel of Minnesota, Inc. d/b/a Verizon Minnesota
Contel of the South, Inc. d/b/a Verizon Mid-States
GTE Alaska Incorporated d/b/a Verizon Alaska
GTE Arkansas Incorporated d/b/a Verizon Arkansas
GTE Midwest Incorporated d/b/a Verizon Midwest
GTE Southwest Incorporated d/b/a Verizon Southwest
The Micronesian Telecommunications Corporation
Verizon California Inc.
Verizon Delaware Inc.
Verizon Florida Inc.
Verizon Hawaii Inc.
Verizon Maryland Inc.
Verizon New England Inc.
Verizon New Jersey Inc.
Verizon New York Inc.
Verizon North Inc.
Verizon Northwest Inc.
Verizon Pennsylvania Inc.
Verizon South Inc.
Verizon Virginia Inc.
Verizon Washington, DC Inc.
Verizon West Coast Inc.
Verizon West Virginia Inc.

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of October, 2000, copies of the forgoing "Reply Comments on Joint Board Recommended Decision" were sent by first class mail, postage prepaid, to the parties on the attached list.

A handwritten signature in black ink, appearing to read "Jennifer L. Hoh", written over a horizontal line.

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